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C O N F I D E N T I A L KATHMANDU 000353

SIPDIS

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TAGS: PGOV PINR PTER NP

SUBJECT: NEPAL: RAYAMAJHEE SELECTED NEW CHIEF JUSTICE

REF: A. KATHMANDU 345

¶B. KATHMANDU 339 AND PREVIOUS

Classified By: Deputy Chief of Mission Randy W. Berry. Reasons 1.4 (b/d).

New Chief Justice Named

¶1. (SBU) On April 29, the Constitutional Council recommended Min Bahadur Rayamajhee to be the new chief justice of Nepal, continuing the tradition of seniority at the expense of the Maoists' preferred candidate. Rayamajhee was the most senior of six Supreme Court justices eligible to replace Chief Justice Kedar Prasad Giri, who on May 4 faces mandatory retirement at age 65. Rayamajhee will reach mandatory retirement age on December 12, 2009.

Seniority Rules

¶2. (SBU) The selection of the new chief justice stalled for several weeks while the seven-member Constitutional Council, led by Prime Minister Pushpa Dahal, debated whether to uphold the tradition of seniority. Senior Maoist leaders, including Law Minister Dev Gurung -- the only other Maoist on the Constitutional Council -- had publicly declared that the choice should be based on the caliber of the candidate. The Maoists reportedly favored Justice Khil Raj Regmi. Rayamajhee will appear before the Parliamentary Special Hearing Committee, date to be determined, and then President Ram Baran Yadav will appoint him Chief Justice of the Supreme Court.

Rayamajhee Biodata

¶3. (SBU) Described as bold and unbending in the media, Rayamajhee (also Rayamajhi) has a record of ruling against government actions, including scrapping the Royal Commission on Corruption and Control and overturning a ban on FM radio news broadcasts under the former king's direct rule in February 2006. He has a reputation for commitment to democracy and the rule of law, and he has never been connected to any allegations of corruption. His colleagues have criticized him for showing off and having a negative attitude toward junior lawyers. Rayamajhee joined the Supreme Court as an ad hoc justice in April 2001 after thirty

years as a judge on various zonal and appellate courts, including a stint as the chief justice of Hetauda Appellate Court. He became a permanent Supreme Court justice in September 2002. Rayamajhee was born on December 12, 1944 in Bhojpur, a district in the hilly region of eastern Nepal. He holds a Bachelor's degree in Law (1967) and a Master's degree in Political Science (1969) from Tribhuvan University, Kathmandu. He is married and has a son.

Comment

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¶4. (C) The Maoists' push for a "merit-based selection" was a thinly-veiled attempt to install a chief justice they believed would be amenable to Maoist interests. Unlikely to bow to political pressure, Rayamajhee could pose a challenge to the Maoists -- if, for example, they attempt to unilaterally remove Chief of Army Staff Katawal. Nevertheless, given the controversy over the Maoists' attempt to sack Katawal (reflets), the Prime Minister may have wisely chosen to bypass a battle over the Supreme Court Chief Justice, since Rayamajhee will reach mandatory retirement age on December 12, 2009.

POWELL